THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO.603 of 2006

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6th January 2006

Between:

Chelikam Srihari S/o Ramachandraiah,
R/o Dakkili Village and Mandal, Nellore District.

...PETITIONER

AND

1 The Joint Collector, Nellore.
2 The Revenue Divisional Officer, Gudur, Nellore District.
3 The Mandal Revenue Officer, Dakkili Nellore District.

...RESPONDENTS

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO.603 of 2006

ORDER:

The petitioner is a fair price shop dealer of Dakkili Village and Mandal, Nellore District. Basing on the report of the Surpanch of Dakkili Village forwarded through the Minister of School Education, the Mandal Revenue Officer, Dakkili Village inspected the fair price shop of the petitioner on 30.09.2005 and submitted a report on 12.10.2005. Basing on the said report, a show cause notice dated 20.10.2005 was issued framing the following charges:

> "Charge 1: That he as fair price shop dealer should distribute essential commodities with authorized measures certified by the Department of Legal Metrology, failed to do so and issued essential commodities with local measure called 'Dabba' and thus violated clause 3 (4) of Annexe to Andhra Pradesh Public Distribution System (Control Order) 2001.
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> Charge 2: During the inspection when compared the stocks as per stock register and Release Orders with that of balance of back log that he has given to the Mandal Revenue Office, it was noticed that there is shortage of 859 Ltrs of kerosene, that he as fair price shop dealer has showed incorrect back log particulars and diverted the said stocks in to the black market for his unlawful gains and thus, violated condition 11 of the Authorisation issued under Andhra Pradesh Scheduled Commodities (Regulation of Distribution Card System) Order, 2001, punishable under clause 17 (b) (c) of Andhra Pradesh State Public Distribution System Control Order, 2001."

While issuing the show cause notice, calling upon the petitioner to submit an

explanation, the dealership of the petitioner was suspended pending enquiry. Insofar as suspension of the dealership pending enquiry is concerned, the petitioner filed an appeal before the Joint Collector, Nellore on 07.11.2005, which was disposed of with directions to the Revenue Divisional Officer to verify and establish whether there is short fall in kerosene and whether the same is within the permissible limits and to pass final orders after the dealer files the explanation for the show cause notice already issued and giving due opportunity to the appellant dealer. Aggrieved by the same, the petitioner filed the present Writ Petition. The Joint Collector ought to have granted stay when there are no grave and serious charges of diverting essential commodities in black market and it would not be just and proper to suspend the authorization pending enquiry.

Having regard to the facts and circumstances of the case, the Writ Appeal is partly allowed and the suspension made pending enquiry is

set-aside and the Revenue Divisional Officer may pass final orders in accordance with the directions issued by the Joint Collector wide order dated 13.12.2005. No costs.

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(V.ESWARAIAH, J)

6th January 2006

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